

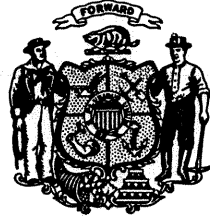
WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-012

AN ORDER to repeal chapter RL 41; and to create chapter DFI-Bkg 41, relating to the registration and renewal of registration fees for mortgage bankers, loan originators and mortgage brokers; the transfer fee for loan originators; and the registration periods for all registrations and renewals of registrations.

Submitted by **DEPARTMENT OF FINANCIAL INSTITUTIONS**

01-26-99 RECEIVED BY LEGISLATIVE COUNCIL.
02-23-99 REPORT SENT TO AGENCY.

RNS:RW:kjf;jal

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached

YES

☐

NO

☒

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached

YES

☒

NO

☐

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached

YES

☐

NO

☒

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached

YES

☐

NO

☒

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached

YES

☒

NO

☐

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached

YES

☐

NO

☒

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached

YES

☐

NO

☒

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 99-012

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. The statutes, in ss. 224.72 (8) and 224.73 (3), Stats., provide authority to the agency to set fees for loan originators, mortgage bankers and mortgage brokers as well as for transfer applications. However, the rule proposes to increase the current fee substantially. These increases should be clearly set forth in the analysis prepared by the agency. The fiscal estimate prepared by the agency indicates an increase in "GPR earned" of \$876,600 based on a series of assumptions.

b. Reference to a renewal form is included in DFI-Bkg 41.01 (2). Under s. 227.14 (3), Stats., the agency is required to include a reference to the form in a note and attach a copy of the form or a description of how a copy may be obtained.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. It is not clear how the agency will "randomly" select 1/2 of the certificates for one-year terms. For example, how will applicants have known in advance whether they will pay a one-year or two-year fee?

b. The current rule includes a separate fee for conversion of a registration; the proposed rule does not include such a fee. A description of this change should be noted in the analysis prepared by the agency. It would be helpful to also have a description of the reasons for the change.

c. Sections DFI-Bkg 41.01 (intro.) and 41.02 (intro.) should end with colons.

PROPOSED RULE
STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF BANKING

Analysis: To amend Chapter RL 41 (title), and to repeal and recreate 41.01 and 41.02. Statutory authority: 224.72(8) and 224.73(3); and 1997 Wisconsin Act 145, Section 72. Summary: This proposed rule sets forth the registration and renewal of registration fees for mortgage bankers, loan originators and mortgage brokers; the transfer fee for loan originators; and the registration periods for all registrations and renewals of registrations. Agency person to be contacted for substantive questions and responsible for agency's internal processing: Michael J. Mach, Administrator, Division of Banking; tel. 266-0451.

> Detail
AS to
current
law.

SECTION 1: "(title)" CHAPTER RL 41 is amended to read:

CHAPTER RL ~~DFI~~—Bkg 41

FEES AND REGISTRATIONS FOR MORTGAGE BANKERS, LOAN
ORIGINATORS AND ~~LOAN SOLICITORS~~ MORTGAGE BROKERS

SECTION 2: RL 41.01 and 41.02 are repealed and recreated to read:

DFI—Bkg 41.01 Registration and renewal of registration fees. The following fees apply to all registrations and renewals of registration under subch. II, ch. 224, Stats. :

- (1) FEES. (a) *Mortgage banker*: \$1,000. (\$200)
(b) *Loan originator*: \$250. (\$100)
(c) *Mortgage broker*: \$750. *Loan Solicitor (\$200)* *Renewals* MB 150
LS 75
LS 150

(2) RENEWAL OF REGISTRATION. A registrant may renew a certificate before expiration of the registration by making an application for renewal on a form prescribed and provided by the department, and paying the fee under sub. (1). A registrant may renew a certificate after the expiration of the registration by making an application for renewal on a form prescribed and provided by the department, paying the fee under sub. (1), and paying a late fee of \$100.00.

(3) TRANSFER. A loan originator may transfer employment to another registered mortgage banker or mortgage broker by making an application for transfer on a form prescribed and provided by the department, and paying a transfer fee of \$20. *registration*

DFI—Bkg 41.02 Registration periods. The following registration periods apply to all registrations and renewals of registration under subch. II, ch. 224, Stats.

(1) REGISTRATIONS AFTER JANUARY 1, 1999. The registration period for mortgage banker, loan originator and mortgage broker certificates issued after January 1, 1999 is 2 years.

Form
cite X
Discretion?
How late?
1 year?
2 year
Form
cite

X

The administrator of the division of banking shall issue certificates that start and expire on the following dates:

Month When Certificate is Issued	Day When Certificate Expires	
January	December 31	All expiration
February	January 31	
March	February 28	dates are in the
April	March 31	
May	April 30	second year after
June	May 31	
July	June 30	the date when the
August	July 31	
September	August 31	certificate
October	September 30	
November	October 31	was issued.
December	November 30	

(2) REGISTRATIONS ON OR BEFORE JANUARY 1, 1999. The registration period for mortgage banker, loan originator and mortgage broker certificates issued on or before January 1, 1999 shall be the same as that in sub. (1), except that the administrator of the division of banking shall randomly select one-half of all such certificates to have a registration period of one year. The expiration date for certificates having a period of one year shall be the last day of the twelfth month from which the certificate was issued. The fee for certificates having a period of one year shall be one-half the fee amount prescribed in s. DFI—Bkg 41.01(1).

Non-Stat
Applicability
① 1st year: OK
2nd year: ??
② On or before
"issued"



State of Wisconsin
Department of Financial Institutions

Tommy G. Thompson, **Governor**

Richard L. Dean, **Secretary**

April 16, 1999

Senator Judy Robson
15 South, State Capitol
Madison, WI 53702

Dear Senator Robson:

I understand the Joint Committee on Administrative Rules is having a hearing later this month regarding an extension to an emergency rule relating to the registration and renewal of registration fees for mortgage bankers, loan originators and mortgage brokers.

As you know, this emergency rule was necessary to implement the provisions of Wisconsin Act 145, which was passed as AB-830 during the last session of the legislature. The permanent rule process has also been initiated. The Assembly Committee on Financial Institutions will be holding a hearing on Clearinghouse Rule 99-012 next week, which is why we've had to request an extension of the emergency rule.

As you consider extending the emergency rule, I thought it would be helpful to provide you with some additional information, including:

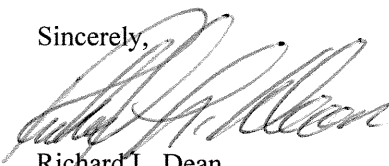
- A summary of AB-830, which has been posted on our website since prior to the passage of the legislation;
- An article of the April/May 1998 edition of the Mortgage Press, providing an overview of the legislation;
- A copy of an April 20, 1998 letter that I sent to approximately 12,000 mortgage banking-related licensees informing them of the passage of the bill;
- A series of articles and news reports from the Milwaukee Journal Sentinel relating to the kinds of problems Wisconsin Act 145 and the rules before you will help address; and,
- A series of articles from the New Jersey press that is a further indication of the need to be serious when it comes to protecting the interests of consumers involved in the largest and most significant purchase of their lifetimes.

I also thought it would be helpful to provide you with a copy of the report on the public hearing that we held on the permanent rule. The Department of Financial Institutions (DFI) was gratified that both the Wisconsin Associations of Mortgage Brokers and the Wisconsin Mortgage Bankers Association testified in support of the new rules at the hearing.

DFI looks forward to the opportunity to testify on the emergency rule extension. If you have any questions on the rule in the meantime, please do not hesitate to call my Executive Assistant, Dave Anderson, at 267-1719. Dave would be more than happy to facilitate a meeting with you and appropriate DFI staff prior to the hearing to address any questions or concerns you might have.

I hope this information is helpful.

Sincerely,



Richard L. Dean
Secretary



Office of the Secretary

345 W. Washington Ave. 5th Floor PO Box 8861 Madison WI 53708-8861 • (608) 264-7800 • Fax: (608) 261-4DFI • www.wdfi.org

CORRESPONDENCE / MEMORANDUM

STATE OF WISCONSIN
Department of Financial Institutions
Division of Banking

DATE: March 4, 1999

TO: Senator Fred Risser
President
Wisconsin State Senate

Representative Scott Jensen
Speaker
Wisconsin State Assembly

FROM: Michael J. Mach
Administrator
Division of Banking

SUBJECT: Report on CR 99-012

This report is submitted pursuant to s. 227.19, Stats., regarding CR 99-012 (proposed rule DFI—Bkg 41).

1. STATEMENT EXPLAINING THE NEED FOR THE PROPOSED RULE

The Department of Financial Institutions, Division of Banking ("division") was authorized, pursuant to ss. 224.72(8) and 224.73(3), Stats. and 1997 Wisconsin Act 145, Section 72 to promulgate rules establishing the registration period and the registration fees for loan originators, mortgage bankers and mortgage brokers; and rules establishing a fee for a transfer application.

The fees under RL 41 neither reflected comparable fees in the industry generally, in particular the fees for similar licenses in neighboring states, nor did the fees under RL 41 reflect the higher standards for participation in the mortgage lending industry as passed by the Wisconsin Legislature in 1997 Wisconsin Act 145. Furthermore, the registration process under RL 41 denied license holders the full two year benefit of their licenses. The proposed staggered license renewal process, as opposed to processing all renewals at one time, also makes the renewal process exceedingly more manageable and efficient by the State.

2. MODIFICATIONS MADE AS A RESULT OF TESTIMONY RECEIVED AT THE PUBLIC HEARING

No testimony was received at the public hearing held on this rule on March 3, 1999 regarding modification to the proposed rule. Therefore no modifications have been made to the proposed rule as a result of testimony received at the public hearing.

3. PERSONS APPEARING OR REGISTERING FOR OR AGAINST THE PROPOSED RULE AT THE PUBLIC HEARING

The following individuals testified in support of CR 99-012:

Pat Essie, Executive Director, Wisconsin Association of Mortgage Brokers ("WAMB")
James E. Hough, representing the Wisconsin Mortgage Bankers Association ("WMBA")
Tom Beiersdorf, as owner of a mortgage lending business and as Past-President, WAMB
Dick Pas, President, WAMB
Steve Jacobson, on behalf of a mortgage lender and as a member of WAMB
Shelley Duescher, a member of WAMB
Kevin Koehn, on behalf of a mortgage lender and as a member of WAMB
Mirielle Enlow, on behalf of a mortgage lender and as a member of WAMB
Todd Langeness, on behalf of a mortgage lender and as a member of WAMB
Lesa Stanfield, on behalf of a mortgage lender and as a member of WAMB
James O. Huff, Deputy Secretary, Department of Financial Institutions

The following individuals registered in favor of CR 99-012 but did not testify:

Debra A. Seeliger, a member of WAMB
Ashley Moore, a member of WAMB
Pat Walters, a member of WAMB
Terri Darling, a member of WAMB

No individuals spoke or registered against CR 99-012.

The following individual submitted written comments opposed to CR 99-012

John W. Torgerson

The following individual attended for informational purposes only:

Maggie Grimm, from the office of Representative Glenn Grothman

4. RESPONSE TO LEGISLATIVE COUNCIL RECOMMENDATIONS

All recommendations of the Legislative Council have been incorporated into the proposed rule. The Legislative Council requested that additional information be placed in this analysis regarding how renewals of registrations made on or before January 1, 1999 would be selected for a one or two year license period. The first half of all such licenses were designated to receive a one year license, and the remainder were designated to receive a two year license. These

designations were incorporated into all renewal applications and an information packet sent to license holders prior to renewal.

5. FINAL REGULATORY FLEXIBILITY ANALYSIS

As noted in the initial regulatory flexibility analysis, the types of businesses affected by the proposed rule are mortgage bankers and mortgage brokers. No new bookkeeping or other procedures will be required for compliance with this rule, and no new professional skills will be necessary for compliance with this rule.

The division was limited in its promulgation of this rule to setting fees and registration periods. The reporting requirements, licensing requirements, renewal process and any other measures otherwise remain the same as set forth in ch. 224, Stats. No design or operational standards are required in the rule, and statutes do not authorize the exemption of businesses from any or all requirements of the rule. Pursuant to s. 227.114 (4), Stats., the division provided an opportunity for all affected businesses, large and small, to participate in the rule making process by contacting all mortgage banker, mortgage broker and loan originator industry representatives and trade associations, and publishing notice in the *Wisconsin State Journal* and at the Department of Financial Institutions' website. Notice was also provided pursuant to s. 227.17 (3)(f), Stats. Pursuant to s. 227.114 (5), Stats., the Department of Commerce and the small business ombudsman clearinghouse received both the proposed rule and the hearing notice, but did not attend the hearing or submit any comments to the division. Notice of the hearing was given to all industry representatives and trade associations, who subsequently did attend the hearing and support the rule. The hearing was conducted to take testimony on any and all issues which individuals or the industries wished to address, whether or not germane to the rule. Pursuant to this testimony, largely not germane, the division is forming an advisory committee comprised of representatives from the mortgage banking, mortgage broker and loan originator industries, and division personnel, to explore these issues. These issues were as follows: education requirements, increased monitoring of unlicensed mortgage lending solicitations, regulation of Internet activities and increased penalties for unlicensed activities. The Department of Financial Institutions and these industries are currently drafting a survey for all licensed mortgage bankers, mortgage brokers and loan originators regarding education requirements.



State of Wisconsin
Department of Financial Institutions

Tommy G. Thompson, **Governor**

Richard L. Dean, **Secretary**

April 2, 1999

APR 02 1999

Joint Committee for Review of Administrative Rules
Senator Judith Robson, Co-Chair
Room 15 South
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Joint Committee for Review of Administrative Rules
Representative Glenn Grothman, Co-Chair
Room 15 North
State Capitol
P.O. Box 8952
Madison, WI 53708-8952

RE: Extension of Emergency Rule

Dear Co-Chairs:

The Department of Financial Institutions, Division of Banking ("division") hereby requests that the attached emergency rule amending Ch. RL 41 (title) and repealing and recreating ss. RL 41.01 and 41.02 be extended for 60 days. This rule was published and became effective December 4, 1998; this rule expires May 3, 1999.

Pursuant to 1997 Wisconsin Act 145, Section 72, the division need not provide evidence of the necessity of preservation of the public peace, health, safety or welfare in promulgating rules under this subsection. Pursuant to s. 227.24, Stats., the division states that it is impossible for the division to promulgate a permanent rule prior to the expiration date of the emergency rule. On April 1, 1999 the Assembly Committee on Financial Institutions scheduled a hearing on the proposed permanent rule, CR 99-012, for April 21, 1999, and no publication in the register to give effect to the rule will occur prior to the expiration date of the emergency rule.

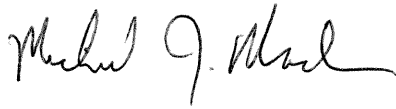


Division of Banking

345 W. Washington Ave. 4th Floor PO Box 7876 Madison WI 53707-7876 • (608) 261-7578 • Fax: (608) 267-6889 • www.wdfi.org

If you have any questions, please do not hesitate to contact me at 266-0451.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael J. Mach". The signature is fluid and cursive, with the first name "Michael" and last name "Mach" being clearly legible, and "J." as a small initial in between.

Michael J. Mach
Administrator
encl

cc: Senator Fred Risser, President, Wisconsin State Senate (w/encl)
Representative Scott Jensen, Speaker, Wisconsin State Assembly (w/encl)
Senator Jon Erpenbach, Chair, Committee on Privacy, Electronic Commerce and Financial
Institutions (w/encl)
Representative Suzanne Jeskewitz, Chair, Committee on Financial Institutions (w/encl)

EMERGENCY RULE
STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF BANKING

Analysis: To amend Chapter RL 41 (title), and to repeal and recreate 41.01 and 41.02. Statutory authority: 224.72(8) and 224.73(3); and 1997 Wisconsin Act 145, Section 72. Summary: This emergency rule sets forth the registration and renewal of registration fees for mortgage bankers, loan originators and mortgage brokers; the transfer fee for loan originators; and the registration periods for all registrations and renewals of registrations. Pursuant to the statutory authority referenced above, the Department of Financial Institutions, Division of Banking adopts the following:

SECTION 1: "(title)" CHAPTER RL 41 is amended to read:

CHAPTER ~~RL~~ DFI—Bkg 41

FEES AND REGISTRATIONS FOR MORTGAGE BANKERS, LOAN
ORIGINATORS AND ~~LOAN SOLICITORS~~ MORTGAGE BROKERS

SECTION 2: RL 41.01 and 41.02 are repealed and recreated to read:

DFI—Bkg 41.01 Registration and renewal of registration fees. The following fees apply to all registrations and renewals of registration under subch. II, ch. 224, Stats.

(1) FEES. (a) *Mortgage banker*: \$1,000.

(b) *Loan originator*: \$250.

(c) *Mortgage broker*: \$750.

(2) RENEWAL OF REGISTRATION. A registrant may renew a certificate before expiration of the registration by making an application for renewal on a form prescribed and provided by the department, and paying the fee under sub. (1). A registrant may renew a certificate after the expiration of the registration by making an application for renewal on a form prescribed and provided by the department, paying the fee under sub. (1), and paying a late fee of \$100.00.

(3) TRANSFER. A loan originator may transfer employment to another registered mortgage banker or mortgage broker by making an application for transfer on a form prescribed and provided by the department, and paying a transfer fee of \$20.

DFI—Bkg 41.02 Registration periods. The following registration periods apply to all registrations and renewals of registration under subch. II, ch. 224, Stats.

(1) REGISTRATIONS AFTER JANUARY 1, 1999. The registration period for mortgage banker, loan originator and mortgage broker certificates issued after January 1, 1999 is 2 years.

The administrator of the division of banking shall issue certificates that start and expire on the following dates:

Month When Certificate is Issued	Day When Certificate Expires	
January	December 31	All expiration
February	January 31	
March	February 28	dates are in the
April	March 31	
May	April 30	second year after
June	May 31	
July	June 30	the date when the
August	July 31	
September	August 31	certificate
October	September 30	
November	October 31	was issued.
December	November 30	

(2) REGISTRATIONS ON OR BEFORE JANUARY 1, 1999. The registration period for mortgage banker, loan originator and mortgage broker certificates issued on or before January 1, 1999 shall be the same as that in sub. (1), except that the administrator of the division of banking shall randomly select one-half of all such certificates to have a registration period of one year. The expiration date for certificates having a period of one year shall be the last day of the twelfth month from which the certificate was issued. The fee for certificates having a period of one year shall be one-half the fee amount prescribed in s. DFI—Bkg 41.01(1).



State of Wisconsin
Department of Financial Institutions

Tommy G. Thompson, **Governor**

Richard L. Dean, **Secretary**

**TESTIMONY BY
JAMES HUFF, DEPUTY SECRETARY
WI DEPARTMENT OF FINANCIAL INSTITUTIONS
April 27, 1999**

On behalf of Secretary Dean, the following is the Department of Financial Institution's policy statement regarding Clearing House Rule 99-012:

Last year the Wisconsin Legislature passed and the Governor signed into law AB 830 (Wis. Act 145). The bill tightens the requirements for doing mortgage business in Wisconsin.

Background

- There has been a dramatic increase in mortgage banking and mortgage brokering activities in recent years due Wisconsin's healthy economy. In a one year period DFI has seen the following increases in the number of mortgage related licensees:

	12/31/1997	Nov. 1998	Percent Increase
Mortgage Bankers	617	839	35%
Loan Solicitors	3,520	5,161	47%
Loan Originators	2,917	5,118	75%

- While the mortgage banking and brokering industries are well regulated and generally conduct themselves in an ethical manner, a tightening of regulatory activities and a focus on consumer education have been necessary to better protect the interests of consumers.
- This effort had the support of both the Wisconsin Mortgage Bankers Association and the Wisconsin Mortgage Brokers Association. Even the industry associations were concerned that the low fees diminished the value of Wisconsin's license.

The Legislation

- AB-830 enhances DFI's regulatory authority over mortgage bankers and mortgage brokers by establishing higher standards for doing business in Wisconsin. The bill:
- Requires additional financial responsibility standards;
- Requires maintenance of an office in the state or more stringent financial responsibility requirements;
- Creates financial responsibility requirements for loan solicitors (i.e., file surety bond or personal bond secured by collateral, or meet minimum net worth requirements);
- Provides for staggered license renewal dates;
- Sets licensing fees by administrative order and requires the Department to enact emergency rules (Page 27, line 11); and,
- Requires greater disclosure to consumers.

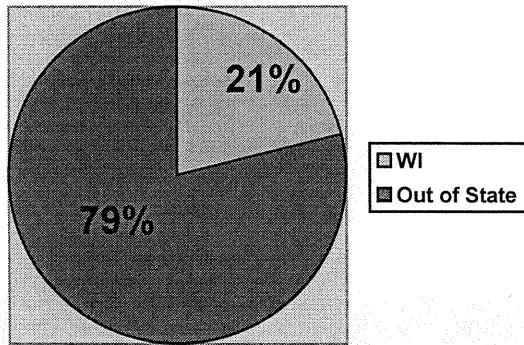
- The bill unanimously passed both the Assembly and Senate Committees. It passed the Assembly on 3/18/98 by a voice vote and was concurred-in by the Senate on 3/26/98.
- Prior to the transfer of mortgage banking to DFI from Reg. & Licensing, a review of the mortgage banking statute was initiated and a draft of proposed revisions was forwarded to DFI. Since the transfer was completed, DFI initiated its own review and developed a more comprehensive proposal to revise the mortgage banking statutes.

MORTGAGE BANKING DATA

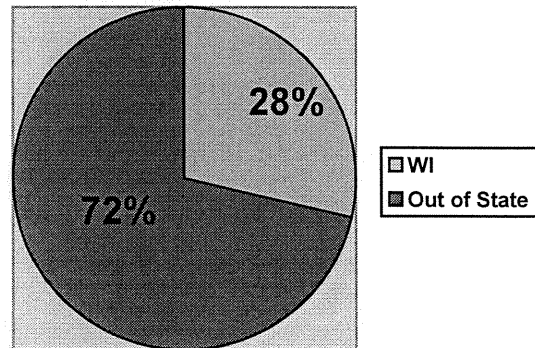
Current Fee Structure (Annualized)			Proposed Fee Structure (Annualized)
Initial Application		Renewal	
Mortgage Bankers	\$19.50	\$243	\$500
Mortgage Brokers	\$19.50	\$52.50	\$375
Loan Originators	\$19.50	\$47	\$125

INSTATE/OUT OF STATE COMPARISON

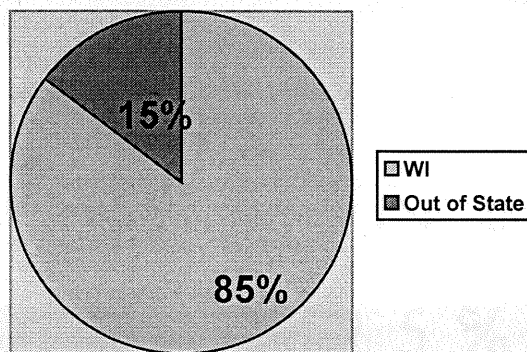
Mortgage Bankers



Loan Originators



Mortgage Brokers



<u>Mortgage Banking License Comparison (Annual Basis)</u>		<u>Other WI DFI Regulated Industries (Annual Basis)</u>	
Michigan	\$2,000	Loan Companies	\$500
Illinois	\$1,800	Insurance Premium	\$500
Iowa	\$400/\$500	Finance Companies	

Fees

During the review of the existing statutes, the introduction and passage of the legislation and the drafting of the “temporary” rules, DFI was in constant contact with, and supported by, the Mortgage Bankers and Mortgage Brokers Associations. In fact, when DFI presented the proposed fee structure to the associations, there were no objections and some members of both associations commented that they believed the fee for loan originators was too low!

An overlooked, but important component of the rule is the provision for staggered licensing. New applicants, when approved, will receive a license for a full two year period. Under the old structure, when all licenses expired on December 31st of every even number year, an applicant might only receive a license for a few weeks if they applied late in the licensing cycle, but still paid a full two year fee. The rule eliminates this problem.

	Cost per month of a Wisconsin License
Mortgage Bankers	\$41.67
Loan Originators	\$10.41
Mortgage Brokers	\$31.25

Why the increase? As noted in the statistics above, the mortgage business has exploded. Loan originators increased by 75% in a one-year period, with a large majority, 72%, from outside Wisconsin. In addition, 79% of all mortgage bankers are from outside Wisconsin. The dramatic increase has raised concerns from both regulators and the industry that Wisconsin may be too lenient with the licensees in this area, having created a “throw away” license. DFI, with the respective associations' full support, proposed tougher financial requirements and higher fees to ensure that those who seek to obtain a mortgage license have some degree of responsibility and commitment. In addition, the significant increase in these regulated entities has created a higher workload for the Mortgage Banking Section.

Concern was heightened even further following a highly publicized loan scandal in the Milwaukee area last summer. DFI revoked two mortgage licenses in that scheme. At that time the mortgage industry asked to meet with DFI to express their concern with potential bad-actors and their hope that we would partner with them in an effort to ensure the integrity of their business.

In conclusion, Clearing House Rule 99-012 was fairly developed in the spirit of Wisconsin Act 145 and ought to be advanced. DFI strongly supports the concept of educational requirements and is committed to work with the industry and legislature to advance the necessary legislation.



State of Wisconsin
Department of Financial Institutions

Tommy G. Thompson, Governor

Richard L. Dean, Secretary

Clearinghouse Rule 99-012
Questions and Answers
(April 27, 1999)

How many mortgage bankers, mortgage brokers and loan originators were licensed as of 12/31/98?

mortgage bankers: 832 (177 in-state, 686 out-of-state)
mortgage brokers: 5549 (4739 in-state, 810 out-of-state)
loan originators: 5692 (1606 in-state, 4086 out-of-state)
TOTAL: 12,104 (6522 in-state, 5582 out-of-state)

How many mortgage bankers, mortgage brokers and loan originators were licensed as of 04/19/99?

mortgage bankers: 402 (121 in-state, 281 out-of-state)
mortgage brokers: 190 (151 in-state, 39 out-of-state)
loan originators: 3092 (2136 in-state, 956 out-of-state)
TOTAL: 3684 (2408 in-state, 1376 out-of-state)

How would you characterize these numbers overall?

If anything, they show a small but significant increase in the percentage of in-state applicants.

Did the increase in fees result in an increase in revenues?

No. With the decrease in number of renewals and applicants, the amount of revenue generated is expected to be several hundred thousand dollars less.

Did this legislation have the effect of closing Wisconsin's borders?

No. Whether in-state or out-of-state, comparable and stringent financial responsibility requirements apply.

Explain the registration period under the proposed rule.

Renewals were randomly given a one or two year license. All new licensees receive a two-year license. This staggered renewal process makes recertification more manageable

by the staff of the Department of Financial Institutions. Previously, every license, no matter when issued, expired on December 31 of every even numbered year. That meant that many licensees enjoyed less than the full term of their licenses before having to renew.

Why do we need this rule?

Pursuant to Wisconsin Act 145, Section 72 which was promulgated into ss. 224.72(8) and 224.73(3), the department was to set rules for the following regarding mortgage bankers, mortgage brokers and loan originators:

- registration period
- registration fees
- a fee for a transfer application

Previously these were set by statute. These no longer exist in statute. Without the rule, there can be no processing and hence licensure because there is nothing in statute or code addressing this.

What happened to the conversion fee?

Because of the new requirements in ch. 224, Stats., it is not possible to convert a license. A new application must be made for each category with all necessary supporting documentation.

What about including a certified loan originator option in the rule?

That is not possible. The statutory grant was for the department to set registration periods and fees, and a transfer fee. The legislature did not include an education requirement or option in its grant of rule-making authority. Furthermore, an education requirement would be a criterion to holding a license and would have to be included in statute with the rest of the criteria to hold a license. Lastly, such an option would not be germane to this rule and hence is not possible at this point in the rule-making process.

Where any changes made to the rule as a result of the hearing DFI held?

No.

Where any changes made to the rule as a result of the report prepared by Legislative Council?

Yes. All recommendations of the Legislative Council were incorporated into the rule. First, the department removed the word "randomly" as regards selecting renewals prior to January 1, 1999. Rather these licensees were divided into two groups based on license number, with the first half receiving a one-year license, and the second half receiving a two-year license. Second, the department included in the analysis an explanation as to why the conversion fee disappeared. Third, there was a grammatical change regarding a colon. Fourth, the fiscal estimate was revised to include updated figures. Lastly, a note was attached advising where forms could be obtained from the department.

What efforts were made to notify the public about the hearing DFI held?

DFI placed a notice as required in the Administrative Register. The department also published notice of the hearing, with a complete copy of the analysis and rule, in the *Wisconsin State Journal*. A copy of the hearing notice, as well as the rule and analysis, were placed on DFI's website. Additionally, industry representatives and the trade associations were personally notified.

What was the testimony at the hearing?

11 individuals testified for the rule.
4 individuals registered for the rule.
0 testified or registered against the rule.
One letter was received opposing the rule.

Was there any discussion regarding the substance of the rule at the hearing?

Almost none. Industry and trade representatives used the opportunity to discuss other issues regarding mortgage bankers, mortgage brokers and loan originators. These issues included a certified loan originator option and education requirements generally, an advisory board and increased penalties for practicing without a license.

When does the emergency rule expire?

May 3.

What happens if the emergency rule is not extended?

Until the proposed rule becomes effective, no more registrations will be processed because there will be no rules in place, either in statute or code, setting forth registration periods or fees.

When is the hearing before the Joint Committee for Administrative Rules?

April 27. A 60 day extension (the maximum that can be requested at this time) has been requested. If approved, the emergency rule will keep registrations going until July 3. If this committee permits this rule to proceed, it could get to the revisor in time for the revisor's May 15th deadline to be published at end-June, hence effective July 1.

Did the Senate take any action on the rule?

No. The department received no notice regarding any action by the Senate, and its 30 day review period has expired.

What is the processing time for a new application?

Currently it is at three weeks. We expect this to decline to 2 weeks and less. The three week period is reflective of the staff having to spend a significant amount of time with the renewals. The renewals are almost completed.

What is the department planning to do if less staff time is needed to process licenses?

We hope to devote additional staff time to investigating complaints and problem licensees, and also shutting down unlicensed activity.

BIENNIAL REVENUE TO DFI			
PRIOR TO FEE CHANGE			
TYPE OF LICENSE	NUMBER OF LICENSES	FEE	REVENUE
MORTGAGE BANKER	830	486.00	403,380.00
MORTGAGE BROKER	5,553	105.00	583,065.00
LOAN ORIGINATORS	5,459	94.00	513,146.00
TOTAL	11,842		1,499,591.00
AFTER FEE CHANGE			
MORTGAGE BANKER	402	1,000.00	402,000.00
MORTGAGE BROKER	190	750.00	142,500.00
LOAN ORIGINATORS	3,092	250.00	773,000.00
TOTAL	3,684		1,317,500.00

Boost in state fees is aimed at curbing fraudulent practices

By Michele Derus

of the Journal Sentinel staff Wisconsin's mortgage-making industry has shrunk 81% since Jan. 1, when the state enacted sharply higher license fees and imposed new financial responsibility requirements.

April 18, 1999

Financial regulators looking to weed out fly-by-night companies and quick-buck artists in the flush but fraud-plagued mortgage business say they got surprisingly powerful results in making it costlier to do business in the state.

License registrations of mortgage bankers, brokers and their employees, called loan originators, had shriveled from 12,104 last year to 1,130 by February 1999, with an additional 1,136 applications pending -- a month after new rates took effect, according to James O. Huff, deputy secretary of the state Department of Financial Institutions.

"We're getting some flak for raising the fees significantly, but let me tell you, we've significantly reduced the number of out-of-state mortgage brokers and bankers doing business in Wisconsin because it was so cheap," Huff said. "And what gets problematic with them is that when something goes wrong, we don't have an office we can go to and pull records."

Huff acknowledged that some fringe players might have gone underground, operating without a license. But he said DFI was working to catch those operating illegally. The agency keeps touch with bankers during loan processing, and this summer it will start a hotline. In addition, all mortgage licensees are listed on the DFI Web site.

"Bankers know they can go to the Web site and check whether someone is licensed -- and they will, because they're going to be concerned with the consequences," Huff said.

The agency believes the current rash of criminal mortgage and real estate deals in Wisconsin has been fostered in part by the ease and low cost of operating here, Huff said.

Financial, real estate and appraisal regulators in Wisconsin, as well as the U.S. attorney's office and the FBI, are investigating numerous transactions that allegedly were done to enrich the parties involved or to close financially shaky deals. More than a half-dozen individuals -- some licensed, some not -- have been charged criminally.

The department took these emergency actions as of Jan. 1:

License fees increased from a flat \$39 to \$1,000 for bankers, \$750 for brokers and \$250 for loan originators.

Personal bond requirements more than doubled to \$25,000 for in-state bankers and \$300,000 for bankers with no offices in Wisconsin. For mortgage brokers, personal bond jumped to \$10,000 for in-state and \$120,000 for out-of-state brokers.

A company's minimum net worth to do mortgage business in Wisconsin more than doubled, to \$100,000 for in-state bankers or brokers and \$250,000 for out-of-state bankers or brokers.

"Our intention here is to make a license very dear, so we ensure that the people we license to do this business in Wisconsin are serious and have a strong degree of financial responsibility. Those bonds are something we can go after in case consumers get hurt," Huff said.

The agency's proposal to make these changes permanent comes up for legislative review before the Assembly Financial Institutions Committee at 1 p.m. Wednesday.

Reaction from those who are regulated has been mixed.

"We support what the department thinks they need to do their job. That doesn't mean our individual members are happy," said Patrick A. Essie, executive director of the Wisconsin Association of Mortgage Brokers in Madison.

"I'd say half our membership is very upset. But I think everyone in the trade understands why it unfortunately may be a bit of a trade-off here, in order to get the type of regulatory scrutiny we all appreciate."

The trade group is seeking a new type of mortgage licensee -- a certified loan originator, who in exchange for passing a state examination on knowledge and skills would get a reduced fee structure.

Jim Hough, executive and legislative director of Wisconsin Mortgage Bankers Association, said his group supports stronger financial requirements and advocates tougher penalties for conducting a mortgage business without proper state credentials.

"Part of this (fraud) problem is that it was so darn easy before to operate in Wisconsin. These changes try to make sure that people in the business are committed to the business," Hough said. "The dramatic reductions in registrations can lead to some optimism that the weeding-out process is working, although the crooks out there are very difficult to handle simply by passing legislation."

Prosecutor tells bankers to 'police yourselves'

Mortgage fraud cases heating up, attorney says

By Michele Derus
of the Journal Sentinel staff

April 25, 1999

Don't be surprised if federal investigators come calling at your mortgage business, tracking the paper trail of suspected fraud, Assistant U.S. Attorney Steve Biskupic told a couple dozen startled bankers last week.

"I've been a federal prosecutor 10 years, and for the last year, my emphasis has been your industry," he told a Wisconsin Mortgage Bankers Association conference workshop gathering in Milwaukee.

"We have cases pending on more than 250 transactions, and somebody's holding that paper. It's been an eye-opener for me, how quickly mortgages are bought and sold. It takes us months and months and months to track these, and each point requires a subpoena."

If attendees expected comforting words about continuing state and federal investigations into fraudulent Wisconsin mortgage deals -- cases that have yielded 10 criminal cases in the past six months -- they sure didn't get them from Biskupic or his fellow workshop speakers, FBI agent Todd Ratcliffe and Wisconsin Realtors Association general counsel Richard J. Staff. Biskupic told the crowd some of them -- maybe many of them -- would be hearing from federal investigators in the months ahead.

"If you get a subpoena, don't think the world has crashed down on you. In an investigation, there are targets, there are subjects, and there are plain old witnesses," the prosecutor said. "But it's in your self-interest, as an individual and institution, to be as forthcoming as possible on these things."

While authorities "have plenty of cases so far over the line that our attention is there," Biskupic said, lenders shouldn't count on small-scale transgressions being ignored.

"Fraud is in essence a lie. Say you represent that there's a 20% down payment but there isn't. Or funds are coming from somewhere else than you're stating. And it's the same with these kickbacks, these gifts, whatever euphemism you choose to call them, in these deals."

"I look at you now, sitting out there -- nice clothes, probably leading nice middle-class lives. You'd come in with your lawyers saying, 'I've never been in trouble before.' Well, that's what white-collar crime is. And don't expect that your status is going to give you any special treatment. In fact, some would argue that you should be hit harder because of your privilege, your education," the prosecutor said, to a stone-silent room.

In the meantime, Biskupic said, "Police yourselves. If you're going into a room on a \$30,000 property and coming out with a \$80,000 deal, or if there's a double closing and amounts that are skyrocketing, you're going to have to answer, 'What were you thinking was going on?'"

Ratcliffe said the FBI's local investigation started 18 months ago with a citizen complaint that led investigators to dozens of instances of city properties selling multiple times in a short span at escalating prices.

"We've served subpoenas on a lot of bankers and brokers since then. We had a few arrests, a few searches. Then it hit the papers and the next thing you know, we had a ton of calls . . . from just about every (profession) involved in real estate transactions," Ratcliffe said. "And in all the cases so far, we've had insider information -- either enough to get us started, or feed us as the case went on."

While the government's investigation is statewide, Ratcliffe said the typical FBI case so far is "an inner-city property and an out-of-state lender."

But all professions involved in home-selling have come under suspicion here and around the country, he said.

"You end up with three victims: the person stuck with the \$100,000 mortgage on a \$60,000 house, the mortgage company stuck holding the paper who thought it was a \$120,000 house," and after the property is abandoned, often as a board-up, the municipality, the FBI agent said.

"And as soon as you get a few boarded-up homes, there goes the neighborhood."

Ratcliffe said he can't discuss cases in the works, but told the crowd to expect more.

"Your industry is booming right now," he said, "and fraud goes where the money's at."

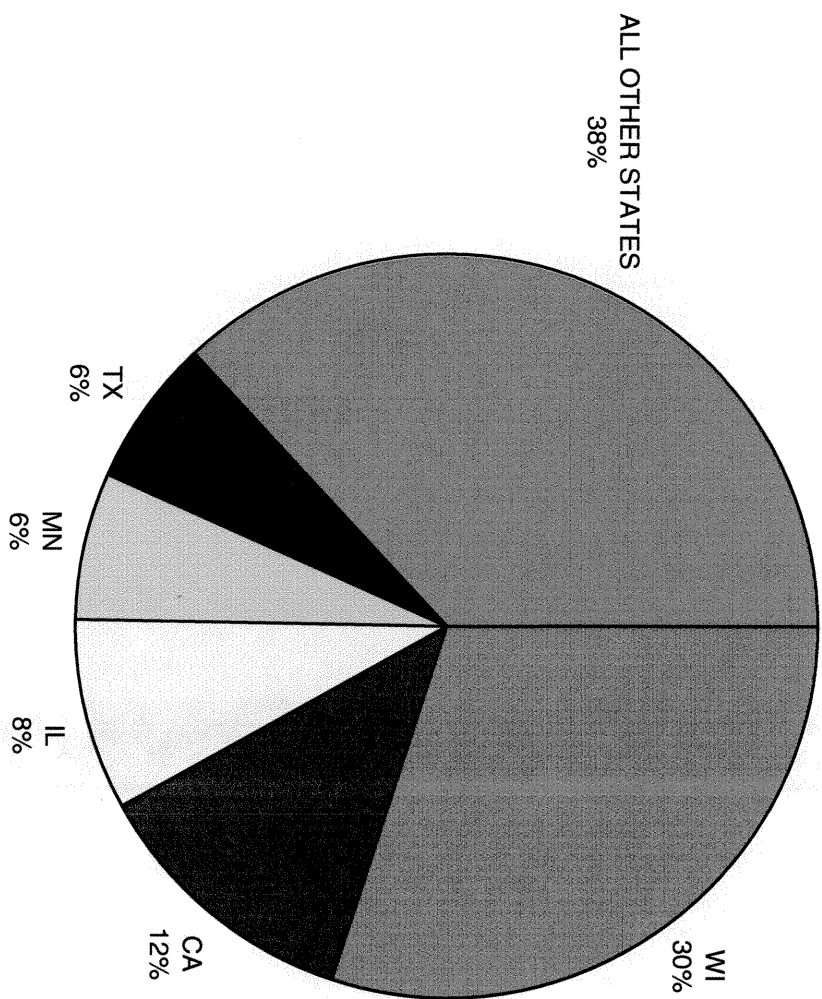
Staff agreed, saying his organization's legal hotline is abuzz with reports of under-the-table home sale deals, including hundreds in the last six months.

These include "calls from brokers saying, 'We feel we're being drawn into acts of fraud. What can we do?'"

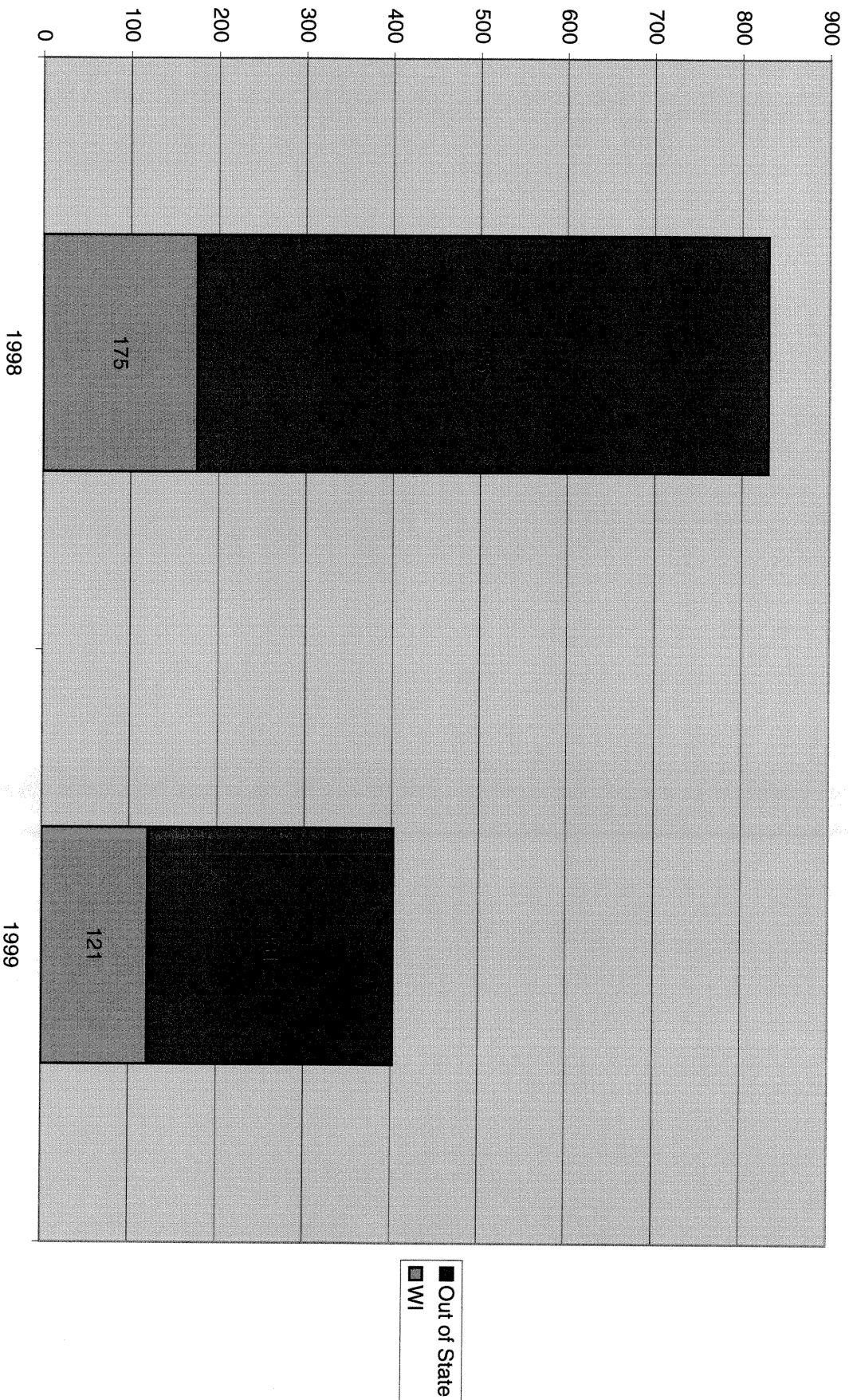
"That's not to point the finger at other industries -- these schemes seem to come from all directions -- the attorneys, the buyers, the lenders and occasionally, the real estate brokers," Staff said.

"We've tried to educate, educate, educate," the lawyer said, echoing his trade association counterparts in the mortgage banking and mortgage brokering industries. But to stop the illegal deals, Staff said, "a couple more nice prosecutions would be helpful."

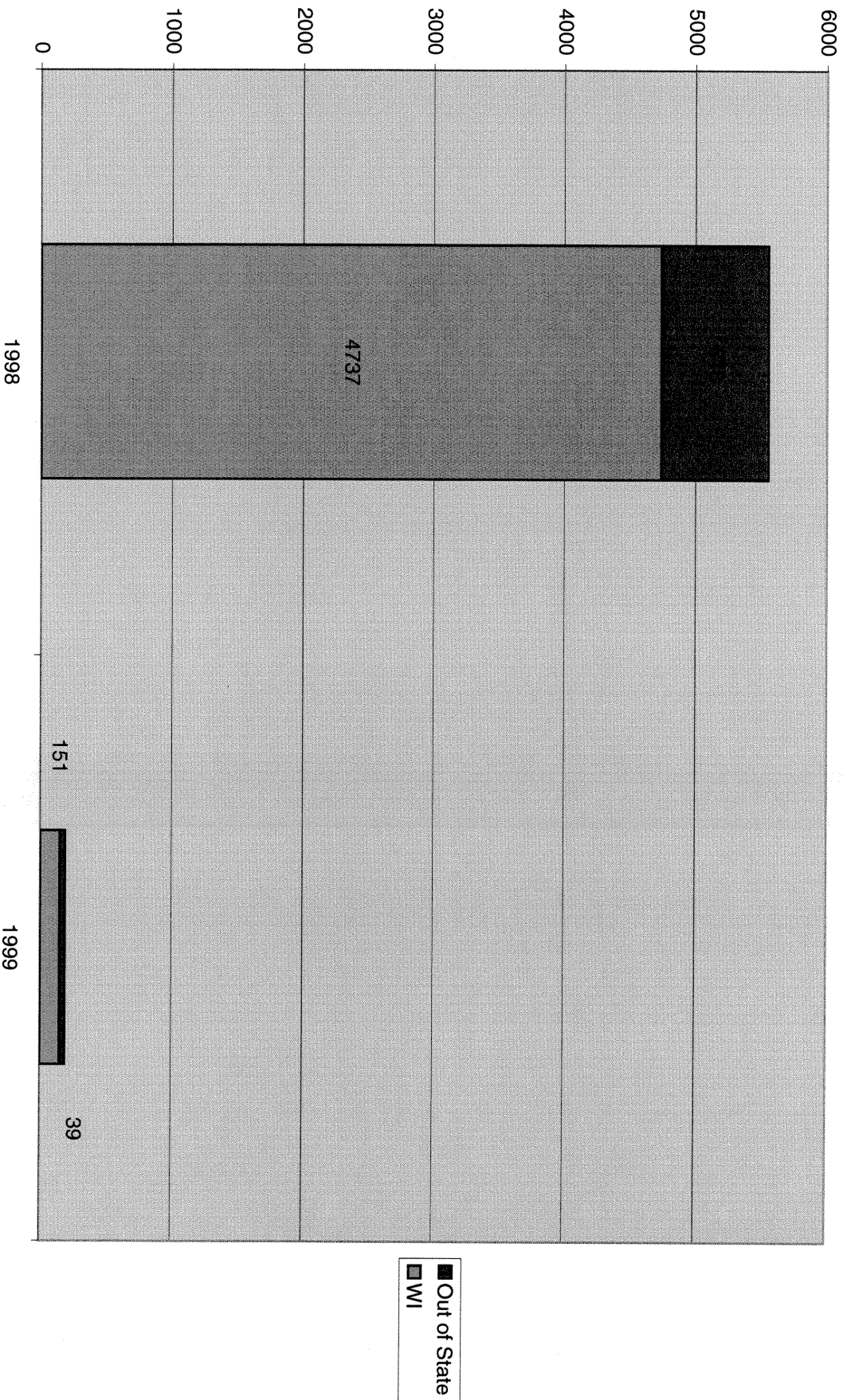
MORTGAGE BANKERS



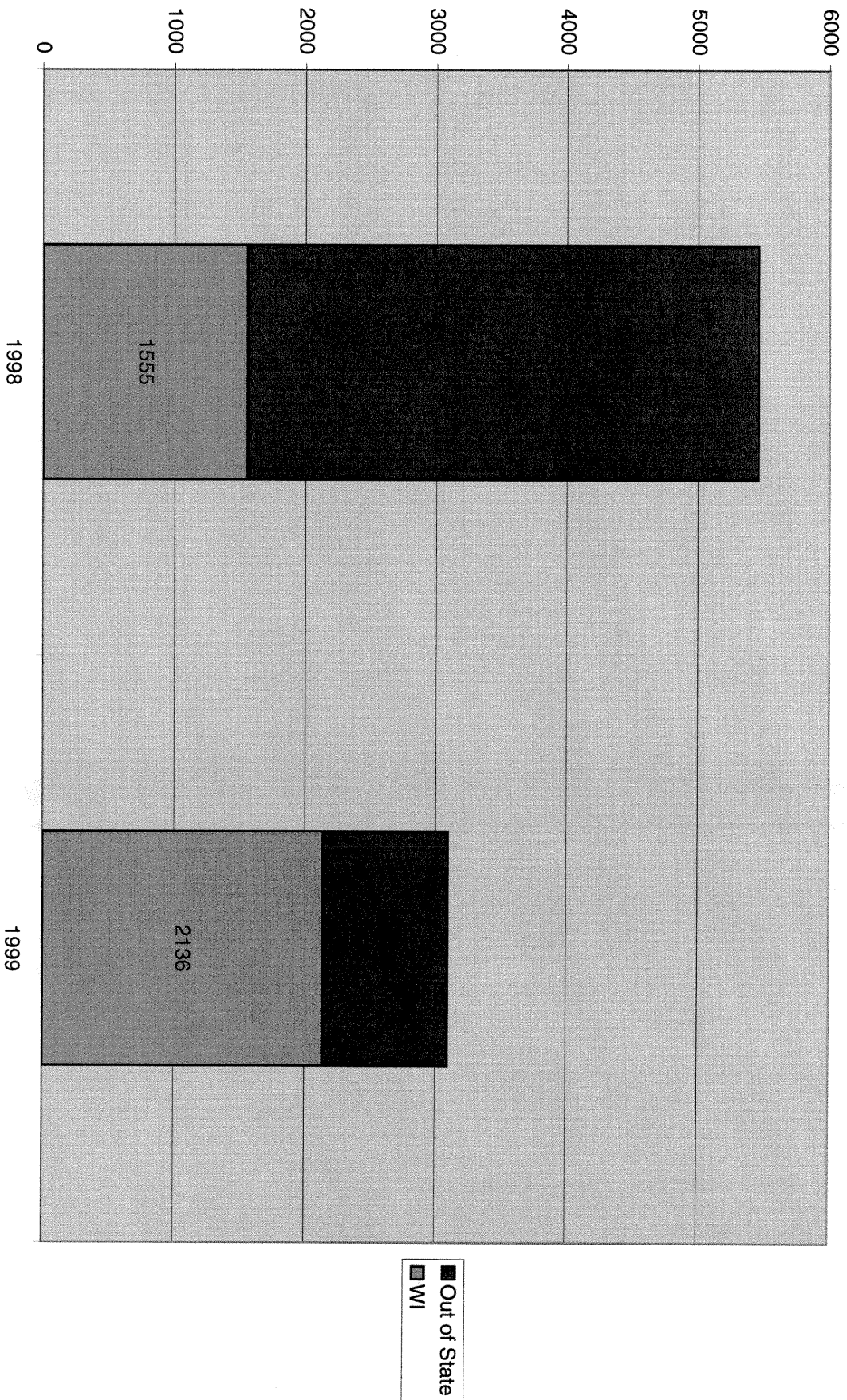
MORTGAGE BANKERS



MORTGAGE BROKERS



LOAN ORIGINATORS



APR 05 1999



State of Wisconsin
Department of Financial Institutions

Tommy G. Thompson, Governor

Richard L. Dean, Secretary

April 2, 1999

Joint Committee for Review of Administrative Rules
Senator Judith Robson, Co-Chair
Room 15 South
State Capitol
P.O. Box 7882
Madison, WI 53707-7882

Joint Committee for Review of Administrative Rules
Representative Glenn Grothman, Co-Chair
Room 15 North
State Capitol
P.O. Box 8952
Madison, WI 53708-8952

RE: Extension of Emergency Rule

Dear Co-Chairs:

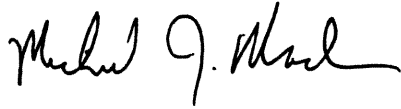
The Department of Financial Institutions, Division of Banking ("division") hereby requests that the attached emergency rule amending Ch. RL 41 (title) and repealing and recreating ss. RL 41.01 and 41.02 be extended for 60 days. This rule was published and became effective December 4, 1998; this rule expires May 3, 1999.

Pursuant to 1997 Wisconsin Act 145, Section 72, the division need not provide evidence of the necessity of preservation of the public peace, health, safety or welfare in promulgating rules under this subsection. Pursuant to s. 227.24, Stats., the division states that it is impossible for the division to promulgate a permanent rule prior to the expiration date of the emergency rule. On April 1, 1999 the Assembly Committee on Financial Institutions scheduled a hearing on the proposed permanent rule, CR 99-012, for April 21, 1999, and no publication in the register to give effect to the rule will occur prior to the expiration date of the emergency rule.



If you have any questions, please do not hesitate to contact me at 266-0451.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael J. Mach". The signature is fluid and cursive, with the first name "Michael" and last name "Mach" clearly legible, and a middle initial "J." in between.

Michael J. Mach
Administrator
encl

cc: Senator Fred Risser, President, Wisconsin State Senate (w/encl)
Representative Scott Jensen, Speaker, Wisconsin State Assembly (w/encl)
Senator Jon Erpenbach, Chair, Committee on Privacy, Electronic Commerce and Financial
Institutions (w/encl)
Representative Suzanne Jeskewitz, Chair, Committee on Financial Institutions (w/encl)

EMERGENCY RULE
STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF BANKING

Analysis: To amend Chapter RL 41 (title), and to repeal and recreate 41.01 and 41.02. Statutory authority: 224.72(8) and 224.73(3); and 1997 Wisconsin Act 145, Section 72. Summary: This emergency rule sets forth the registration and renewal of registration fees for mortgage bankers, loan originators and mortgage brokers; the transfer fee for loan originators; and the registration periods for all registrations and renewals of registrations. Pursuant to the statutory authority referenced above, the Department of Financial Institutions, Division of Banking adopts the following:

SECTION 1: "(title)" CHAPTER RL 41 is amended to read:

CHAPTER ~~RL~~ DFI—Bkg 41

FEES AND REGISTRATIONS FOR MORTGAGE BANKERS, LOAN
ORIGINATORS AND ~~LOAN SOLICITORS~~ MORTGAGE BROKERS

SECTION 2: RL 41.01 and 41.02 are repealed and recreated to read:

DFI—Bkg 41.01 Registration and renewal of registration fees. The following fees apply to all registrations and renewals of registration under subch. II, ch. 224, Stats.

(1) FEES. (a) Mortgage banker: \$1,000.

(b) Loan originator: \$250.

(c) Mortgage broker: \$750.

(2) RENEWAL OF REGISTRATION. A registrant may renew a certificate before expiration of the registration by making an application for renewal on a form prescribed and provided by the department, and paying the fee under sub. (1). A registrant may renew a certificate after the expiration of the registration by making an application for renewal on a form prescribed and provided by the department, paying the fee under sub. (1), and paying a late fee of \$100.00.

(3) TRANSFER. A loan originator may transfer employment to another registered mortgage banker or mortgage broker by making an application for transfer on a form prescribed and provided by the department, and paying a transfer fee of \$20.

DFI—Bkg 41.02 Registration periods. The following registration periods apply to all registrations and renewals of registration under subch. II, ch. 224, Stats.

(1) REGISTRATIONS AFTER JANUARY 1, 1999. The registration period for mortgage banker, loan originator and mortgage broker certificates issued after January 1, 1999 is 2 years.

The administrator of the division of banking shall issue certificates that start and expire on the following dates:

Month When Certificate is Issued	Day When Certificate Expires	
January	December 31	All expiration
February	January 31	
March	February 28	dates are in the
April	March 31	
May	April 30	second year after
June	May 31	
July	June 30	the date when the
August	July 31	
September	August 31	certificate
October	September 30	
November	October 31	was issued.
December	November 30	

(2) REGISTRATIONS ON OR BEFORE JANUARY 1, 1999. The registration period for mortgage banker, loan originator and mortgage broker certificates issued on or before January 1, 1999 shall be the same as that in sub. (1), except that the administrator of the division of banking shall randomly select one-half of all such certificates to have a registration period of one year. The expiration date for certificates having a period of one year shall be the last day of the twelfth month from which the certificate was issued. The fee for certificates having a period of one year shall be one-half the fee amount prescribed in s. DFI—Bkg 41.01(1).

Preferred Mortgage Company

2130 Brackett Avenue • P.O. Box 1605 • Eau Claire, WI 54702-1605

(715) 834-5551
FAX 834-7151

March 2, 1999

Richard L. Dean, Secretary
Department of Financial Institutions
345 W. Washington Avenue
Madison, WI 53703

Dear Dick:

As promised and hopefully timely for the public hearing on Wednesday, I offer my comments on the new licensing fees for the mortgage industry.

The increase in the fee structure is outrageous. My mortgage broker fee rose from \$105 to \$750, a 614 percent increase. My mortgage banker fee rose from \$486 to \$1,000, a 105 percent increase. My originators' fees went up from \$105 to \$250, a 138 percent increase. Because I have two originators the total increase amounted to \$1,449 or \$725 per year. I consider these increases to be unwarranted and punitive. To my knowledge there has never been a complaint against one of my businesses. The fees we pay to operate should bear some relationship to the cost of supervising the industry. There is no way this much money is needed to fund the cost of our supervision, therefore I consider it nothing more than another anti-business tax.

The timing of the announcement was abrupt. Increases of this magnitude warrant plenty of advance warning. Most mortgage brokerages are small businesses and not prepared to deal with sudden, substantial expenditures.

You mentioned the large increases in the number of new licenses issued in recent years. Why should the state worry about the number of competitors in an industry? I think competition will keep the number of providers of any service in check. If the state truly must restrict the number of my competitors then you should look at the way the Commissioner of Insurance handled a similar situation.

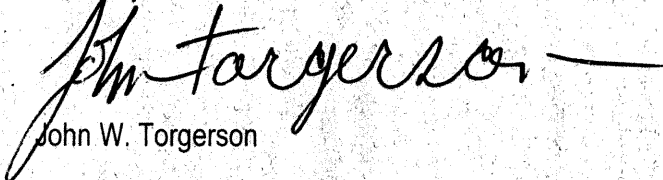
In that case the regulators worked with the industry to gradually but effectively lower the number of licensees without imposing confiscatory and punitive fee increases. They did it by adopting, with fair warning, a pre-licensing education requirement. This dramatically reduced the rate of growth in the number of insurance agents. Then a continuing education requirement was imposed which caused a large reduction in the number of



licenses outstanding. Both of these measures were undertaken with the support and cooperation of the industry and were considered very successful.

In conclusion I urge repeal of the emergency rule creating these burdensome increases and an immediate refund of the dollars confiscated from these small businesses.

Sincerely,

A handwritten signature in black ink, appearing to read "John W. Torgerson", followed by a horizontal line.

John W. Torgerson

cc: Rep. Glenn Grothman
Sen. Judith Robson